

Remarks

The Office Action dated March 22, 2005, and made final, and the Advisory Action dated May 19, 2005 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 1-7 and 9-16 are pending in this application. Claims 1-7 and 9-16 stand rejected.

The rejection of Claims 1-7 under 35 U.S.C. § 103 (a) as being unpatentable over Ohta (US 5,780,129) in view of Evans et al. (US 4,397,490) is respectfully traversed.

Ohta describes a multi-layered blow-molded hollow automobile bumper. The automobile bumper includes a main bumper body (1) made from glass reinforced ABS having a molding shrinking factor of 0.5%, and a surface portion (2) made of an olefinic elastomeric resin having a molding shrinking factor of 1.8%. The two layers are secured to each other by a clamping force caused by the difference in the molding shrinking factors of the two layers. The bumper does not include an energy absorber. Particularly, Ohta does not describe nor suggest a blow molded unitary energy absorber.

Evans et al. describes a bumper assembly that includes a stamped steel "C" section face bar 12 attached to a steel backplate 13 to form an all steel box section beam. The bumper assembly does not include an energy absorber. Particularly, Evans et al. do not describe nor suggest a blow molded unitary energy absorber.

Claim 1 of the present application recites an energy absorber that comprises "a blow molded thermoplastic unitary structure having a rearward facing support portion and a crushable forward projecting portion adapted to crush upon the impact, said support portion comprising a

flange extending around a periphery of said support portion for attaching said energy absorber to a bumper beam".

Ohta and Evans et al., alone or in combination, do not describe nor suggest an energy absorber as recited in Claim 1. Particularly, Ohta and Evans et al., alone or in combination, do not describe nor suggest an energy absorber that is a blow molded thermoplastic unitary structure having a rearward facing support portion and a crushable forward projecting portion adapted to crush upon the impact, with the support portion including a flange extending around a periphery of the support portion for attaching said energy absorber to a bumper beam. Rather, Ohta describes a non-unitary multi-layered automobile bumper that does not include an energy absorber. The Ohta bumper assembly includes a hollow main bumper body and a decorative fascia layer attached to the main bumper body. The Ohta bumper does not include an energy absorber having crushable forward projecting portion and a support portion having a flange extending around its periphery. There is no indication in Ohta that his bumper is capable of crushing on impact to absorb energy. Also, the Evans et al. bumper assembly does not include an energy absorber. Rather Evans et al. describe a stamped steel "C" section face bar attached to a steel backplate to form an all steel box section beam. The Evans et al. bumper does not include an energy absorber having crushable forward projecting portion and a support portion having a flange extending around its periphery. Accordingly, because the combined teachings of Ohta and Evans et al. do not describe nor suggest all the elements of the energy absorber recited in Claim 1, a *prima facie* case of obviousness has not been established.

Applicants submit that the suggestion in the Advisory Action, at page 2, that the Ohta "bumper can indeed constitute an energy absorber" and that the Examiner "is interpreting the term

'energy absorber' in the broadest definition to include bumpers", is improper because these skewed definitions do not coincide with the recitations of Claims 1-16 nor the specification of the present application. Also, these definitions do not coincide with what one skilled in the art would understand what is meant by an "energy absorber" in a bumper system. Applicants respectfully submit that "energy absorber" used in conjunction with a bumper system is a term of art that is well known, see, for example, U.S. Patent Nos. 6,406,081, 6,669,251, 6,726,262, and 6,866,313.

In particular, dependent Claim 16 recites "said energy absorber is interposed between the fascia and the bumper beam to form a vehicle bumper, said vehicle bumper being attachable to the front of the vehicle, said fascia enveloping the energy absorber and the bumper beam such that neither component other than the fascia is visible once attached to the vehicle". Applicants submit that considering the bumper taught by Ohta or the bumper taught by Evans et al. as being an energy absorber makes dependent Claim 16 absurd. Also, independent Claim 1 recites "An energy absorber adapted for attachment to a vehicle bumper beam for absorbing forces generated from an impact, said energy absorber comprising a blow molded thermoplastic unitary structure having a rearward facing support portion and a crushable forward projecting portion adapted to crush upon the impact, said support portion comprising a flange extending around a periphery of said support portion for attaching said energy absorber to a bumper beam". Applicants submit that considering the bumper taught by Ohta or the bumper taught by Evans et al. as being an energy absorber would make Claim 1 nonsensical because one skilled in the art would know that one does not attach a bumper to another bumper.

Further, combining the stamped steel flange of the steel backplate of Evans et al. with the bumper of Ohta does not produce an energy absorber having crushable forward projecting portion and a support portion having a flange extending around its periphery. Rather, the combination of the teachings of Evans et al. with the teachings of Ohta results in a plastic bumper having a metal flange on the back face, which is not an energy absorber.

Still further, Applicants submit that it would not be obvious to one skilled in the art to combine the teachings of Evans et al. with the teachings of Ohta because there is no motivation to do so. Particularly Ohta teaches a blow molded plastic bumper and Evans et al. teach a steel bumper beam. The teachings are nonanalogous because the properties and requirements of plastic structures are entirely different from those of steel structures. As is well known, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. Evans et al. teach a steel bumper beam and not a plastic structure as taught by Ohta.

At least for the reasons explained above, Applicants submit that independent Claim 1 is patentable over Ohta and Evans et al., alone or in combination.

Claims 2-7 depend from independent Claim 1. When the recitations of dependent Claims 2-7 are considered in combination with the recitations of Claim 1, Applicants respectfully submit that Claims 2-7 likewise are patentable over Ohta and Evans et al., alone or in combination.

The rejection of Claims 1-7 and 9-16 under 35 U.S.C. § 103(a) as being unpatentable over Tamada et al. (US 6,406,079) in view of Ohta (US 5,780,129) and Evans et al. (US 4,397,490) is respectfully traversed.

As explained above, Ohta and Evans et al., alone or in combination, do not describe nor suggest an energy absorber as recited in Claim 1. Accordingly, Claim 1 is patentable over Ohta and Evans et al., alone or in combination.

Tamada et al. describe an automobile bumper that includes a fascia and a pair of bumper cores that are interposed between the fascia and the car body. Each bumper core includes an front wall, an opposing rear wall, a pair of opposing side walls, and a plurality of ribs extending between the front and rear walls. Tamada et al. do not describe nor suggest an energy absorber that is a blow molded thermoplastic unitary structure having a support portion that includes a flange extending around the periphery of the support portion for attaching the energy absorber to a bumper beam.

Tamada et al., Ohta, and Evans et al., alone or in combination, do not describe nor suggest an energy absorber as recited in Claim 1. Particularly, Tamada et al., Ohta, and Evans et al., alone or in combination, do not describe nor suggest an energy absorber that is a blow molded thermoplastic unitary structure having a support portion that includes a flange extending around the periphery of the support portion for attaching the energy absorber to a bumper beam. Rather, as explained above, Ohta describes a non-unitary, multi-layered automobile bumper that does not include an energy absorber having crushable forward projecting portion and a support portion having a flange extending around its periphery. Also, the Evans et al. bumper assembly does not include an energy absorber. Rather Evans et al. describe a stamped steel "C" section face bar attached to a steel backplate to form an all steel box section beam. The Evans et al. bumper does not include an energy absorber having crushable forward projecting portion and a support portion having a flange extending around its periphery. Further, Tamada et al. describe a

pair of bumper cores with each having a front and a rear wall. However, Tamada et al. do not describe a support portion that includes a flange extending around the periphery of the support portion for attaching the energy absorber to a bumper beam. Accordingly, because the combined teachings of Tamada et al., Ohta and Evans et al. do not describe nor suggest all the elements of the energy absorber recited in Claim 1, a *prima facie* case of obviousness has not been established.

Still further, Applicants submit that it would not be obvious to one skilled in the art to combine the teachings of Evans et al. with the teachings of Tamada et al. because there is no motivation to do so. Particularly Tamada et al. teaches bumper that includes a bumper fascia and a bumper core. The bumper core is disposed between the inside of the bumper fascia and the car body. Applicants submit that there is no motivation to include a flange around the core pieces of Tamada et al. to permit attachment to a bumper beam because the bumper taught by Tamada et al. does not include a bumper beam. As is well known, it is impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. Evans et al. teach a steel bumper beam that includes a steel flange and Tamada et al teach a bumper core that lies between the bumper fascia and the car body.

Accordingly, Applicants submit that Claim 1 is patentable over Tamada et al., Ohta, and Evans et al., alone or in combination.

Claims 2-7 and 9-16 depend from independent Claim 1. When the recitations of dependent Claims 2-7 and 9-16 are considered in combination with the recitations of Claim 1,

Applicants respectfully submit that Claims 2-7 9-16 likewise are patentable over Tamada et al., Ohta, and Evans et al., alone or in combination.

For the reasons set forth above, Applicants respectfully request that the Section 103(a) rejection of Claims 17 and 9-16 be withdrawn.

In view of the foregoing amendments and remarks, all the claims now active in this application are believed to be in condition for allowance. Favorable action is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, reading "Michael Tersillo". The signature is written in a cursive, flowing style. The first name "Michael" is written with a large, prominent 'M' and the last name "Tersillo" follows in a similar cursive script. The signature is positioned above a horizontal line.

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